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number, but reference will be made to a few: *U. S. v. Bevans*, 3 Wheat., at p. 390; *Moore v. American Transportation Co.*, 24 Howard, 1-41; *U. S. v. Irwin*, Federal Cases No. 14,445; Supreme Court of Ky. in *City of Covington v. McNicholas Heirs*, 57 Ky. 262; *Rogers v. Boiller*, 3 Mart. O. S. 665; *City of St. Louis v. Laughlin*, 49 Mo. 559; *Brandon v. Davis*, 2 Leg. Rec. 142; *Felt v. Felt*, 19 Wis. 183, also *State v. Gootz*, 22 Wis. 363; *Gaither v. Green*, 40 La. Ann. 362, 4 So. Rep. 210; *Phillips v. Christian Co.*, 87 Ill. App. 481; *In re Rouse, Hazzard & Co.*, 91 Fed. Rep. 96; *Barbour v. City of Louisville*, 83 Ky. 95; *Townsend Gas & Electric Co. v. Hill*, 64 Pac. Rep. 778, 24 Wash. 369; *State v. Hobe*, 82 N. W. Rep. 336, 106 Wis. 411.

In *Regina v. France*, 7 Quebec, Q. B., 83, it is stated that:

It is immaterial, it has been held, whether the generic term precedes or follows the specific terms which are used. In either case the general word must take its meaning and be presumed to embrace only things or persons of the kind designated in the specific words. (Quoted from Am. & Eng. Enc. of Law, Vol. 26, p. 610, under caption "Statute.")

DID THE UNITED STATES ABANDON VESTED RIGHTS?

Not only does the language of Article II confine its meaning to specific changes of channel described therein, but the fifth article of the same convention makes provision for the protection of property rights "in respect of lands which may have become separated through the creation of new channels as defined in Article II," but it makes no provision whatever for the protection of property rights in contemplation of any other change in the course of the river, much less does it make such provision as to lands degraded by rapid and violent erosion. It was suggested by the Honorable Presiding Commissioner during the argument of this case that no provision was necessary to protect private rights in case the land was carried away by any character of erosion because the property itself was destroyed and no private rights could remain. (Record, pp. 704, 705.) In this proposition the United States Commissioner concurs, but he is wholly at loss to discover how a public or international title could remain in property that was so effectually destroyed as to annihilate private rights. Even supposing it was unnecessary to protect private rights on the banks thus degraded, would no idea have suggested itself with regard to the rights of those who had taken up their residence on the other side, for instance, at El Chamizal, or at Santa Cruz Point? As suggested by the Presiding Commissioner, "all the

great changes in the course of the Rio Grande had occurred, and practically the whole Chamizal tract had been formed * * * but the fact remains that all the great and visible changes which are reported to have taken place during the floods extending from 1864 to 1868 had done their work, and, in the case of the Chamizal tract, the changes had been so considerable in the upper portion of the river, which is proved to have been less liable to modifications owing to the nature of its soil than the lower part of the river, that it formed the subject of much diplomatic correspondence." (Opinion, p. 20.) And yet the record in the case discloses that every foot of the accretion at El Chamizal had been occupied prior to 1884 under color of American title. (See official map of El Paso, Texas, 1881, U. S. Countercase, Portfolio, Map No. 10; also Act incorporating the city of El Paso, U. S. Countercase, p. 139, and Patents of the State of Texas and Minutes of the City Council of the City of El Paso, U. S. Countercase, pp. 139-168.)

The Supreme Court of the United States, in the case of *United States v. Arredondo*, *supra*, says:

That it has been very truly urged by the counsel of the defendant in error that it is the usage of all the civilized nations of the world, when territory is ceded, to stipulate for the property of its inhabitants. An article to secure this object, so deservedly held sacred in the view of policy as well as of justice and humanity, is always required and never refused.

And further in that case the court, in alluding to the treaty between the United States and Spain, concluded on the 27th of October, 1795, said:

Had Spain considered herself as ceding territory, she could not have neglected a stipulation which every sentiment of justice and national honor would have demanded, and which the United States could not have refused.

Under the fluvial boundary, which this Commission has held the Treaties of 1848 and 1853 created, a title had vested in the United States and the citizens thereof in all accretions to the Chamizal tract under the recognized principles of international law. If the language of the Convention of 1884 recognized in Mexico or its citizens any right in any portion of such accretions, however formed, the United States divested itself and its citizens of rights which international law had given them and yet the United States did, if the opinion of the majority of this Commission is correct, neglect "a stipulation which every sentiment of justice and national honor would have demanded, and which the United States [Mexico] could not have refused."

Vattel says (Law of Nations, Book I, chap. 2, sec. 17) :

The body of a nation can not then abandon a province, a town, or even a single individual who is a part of it, unless compelled to it by necessity, or indispensably obligated to it by the strongest reasons founded on the public safety.

The foregoing views are in entire accord with the opinion of the Mexican Commissioner as expressed in the second paragraph of the dissenting opinion.

WHAT LAW GOVERNS?

The Commissioner for the United States has been unable to discover, although he has made a careful study of the opinion of the majority of the Commission, under what provision of the Convention of 1884 it is conceived that Mexico can be entitled to any portion of the Chamizal tract, the formation of which may be ascribed to any character of erosion, whether slow and gradual or rapid and violent. Had the Commissioner for the United States has been able to expel from his mind and to disregard the language of the Treaties of 1889 and 1905, had he been able to forget and disregard the construction which has been placed upon Article I of the Convention of 1884 by the International Boundary Commission since its organization in 1893, and had he been wholly uninfluenced by the fact that counsel for Mexico as well as counsel for the United States were agreed that the Convention of 1884 embraced but two classes of changes as hereinbefore set forth (Record, p. 608), he might have been able to concur with the majority of the Commission that the degradation of the Mexican bank of the river at some uncertain points and at some uncertain times was not within the meaning of Article I of the Treaty of 1884, but the Commissioner for the United States does not believe that by any stretch of the imagination or any elasticity of the law, any character of erosion and deposit can be brought within the meaning of Article II of that convention. Therefore, the result must have been the same; if the change which occurred at El Chamizal was not within the meaning of either Article I or II of the Convention of 1884, then said convention becomes inapplicable and we must look to the principles of international law for the rule which is to govern our action. But it is admitted both in the language of the Commission as embodied in the record of our hearing (Record, pp. 203, 300) as well as in the printed argument of counsel for Mexico (Mexican Argument, p. 31) that under the principles of international law the change in the course of the river due to erosion and deposit would carry the boundary line with it, no